

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KEN JOSEPH,

Plaintiff,

v.

EXPERIAN INFORMATION
SOLUTIONS, INC., *et al.*,

Defendants.

CIVIL ACTION

NO. 1:18-cv-03443-AT-RGV

ORDER

On August 3, 2018, the Court granted *pro se* plaintiff Ken Joseph's ("plaintiff"), application to proceed *in forma pauperis*, but, due to deficiencies with his complaint, the Court also ordered him to replead his complaint within fourteen days. See [Doc. 2]. Plaintiff failed to replead his complaint within fourteen days, and on August 22, 2018, the Court recommended that his complaint be dismissed without prejudice for failure to obey the Court's August 3, 2018, Order and for failure to state a claim. See [Doc. 4]. Plaintiff subsequently filed an amended complaint against defendants Experian Information Solutions, Inc., Trans Union LLC, Equifax, Inc., and Equifax Information Services, LLC, collectively referred to as "defendants," on August 27, 2018. [Doc. 6]. On September 14, 2018, the Honorable Amy Totenberg, United States District Judge, declined to adopt the Report and Recommendation, ruling that since plaintiff "is proceeding *pro se* and his late filing was *de minimus*, the Court [would] allow his filing to be considered this time." [Doc. 7 at 2 (emphasis omitted)]. Judge

Totenberg referred this matter back to the undersigned for consideration of plaintiff's amended complaint. [Id.]. Based on the allegations of plaintiff's amended complaint, the Court does not find that the instant action is entirely frivolous or malicious. See Neitzke v. Williams, 490 U.S. 319, 324 (1989). Therefore, this action shall be allowed to proceed as any other civil action as to plaintiff's claims against defendants.

The Clerk is hereby **DIRECTED** to send plaintiff the USM 285 forms, summonses, and initial disclosures forms. Plaintiff is **DIRECTED** to complete the USM 285 forms, summonses, and initial disclosures forms, and to return one for each of the defendants named in the complaint within **twenty (20) days** from the entry date of this Order, to the Clerk of Court. Plaintiff is warned that the failure to comply could result in the dismissal of this action. The Clerk is **DIRECTED** to resubmit this action to the undersigned if plaintiff fails to comply.

Upon receipt of the forms by the Clerk, the Clerk is **DIRECTED** to prepare a service waiver package for each of the named defendants. The service waiver package must include two (2) copies of the Notice of Lawsuit and Request for Waiver of Service of Summons (prepared by the Clerk), two (2) copies of the Waiver of Service of Summons forms (prepared by the Clerk), an envelope addressed to the Clerk of Court with adequate first class postage for use by each of the defendants for return of the waiver form, one (1) copy of the complaint, one (1) copy of the initial

disclosures form, and one (1) copy of this Order. The Clerk shall retain the USM 285 forms and the summons(es).

Upon completion of the service of waiver packages, the Clerk is **DIRECTED** to complete the lower portion of the Notice of Lawsuit and Request for Waiver forms and to mail the service waiver packages to each of the named defendants. Defendants have a duty to avoid unnecessary costs of serving the summons. If any of the defendants fail to comply with the request for waiver of service, that defendant must bear the costs of personal service unless good cause can be shown for failure to return the Waiver of Service form.

In the event that any of the defendants do not return the Waiver of Service form to the Clerk of Court within **thirty-five (35)** days following the date on which the service waiver package was mailed, the Clerk is **DIRECTED** to prepare and transmit to the U.S. Marshals Service a service package for that defendant. The service package must include the USM 285 form, the summons, and one (1) copy of the complaint. Upon receipt of the service package, the U.S. Marshals Service is **DIRECTED** to personally serve that defendant. The executed waiver form or the completed USM 285 form shall be filed with the Clerk.

Plaintiff is **DIRECTED** to serve upon each of the defendants or defendants' counsel a copy of every additional pleading or other document which is filed with

the Clerk of Court. Each pleading or other document filed with the Clerk shall include a certificate stating the date on which an accurate copy of that paper was mailed to the defendants or defendants' counsel. This Court shall disregard any submitted papers which have not been properly filed with the Clerk or which do not include a certificate of service.

Plaintiff is also **REQUIRED** to **KEEP** the Court and the defendants advised of his current address at all times during the pendency of this action. Plaintiff is admonished that the failure to do so will result in the dismissal of this action.

IT IS SO ORDERED and **DIRECTED**, this 1st day of October, 2018.


RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE